IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1458 of 1998

with

CIVIL REVISION APPLICATION No 1459 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JAYSINH GUMANSINGH PARMAR

Versus

AISHA MINYA AHMAD DIWAN

Appearance:

1. Civil Revision Application No. 1458 of 1998
   MR RN SHAH for Petitioner Nos. 1-2
   MR JV JAPEE for the Respondent.
2. Civil Revision Application No. 1459 of 1998
   MR RN SHAH for the Petitioners.
   MR JV JAPEE for the Respondent.

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 19/03/2004

ORAL JUDGEMENT

The petitioners herein are the original defendants of Regular Civil Suit No.63 of 1998. The opponent has filed the said suit for a declaration and permanent injunction. The plaintiff has sought for a declaration and permanent injunction. The plaintiff has sought for a declaration regarding his ownership on the basis of some sale document, which is in his favour.

In the aforesaid suit, the trial court was called upon to decide whether the stamp affixed on the plaint is proper or not. In the said suit, the defendant gave applications Exhibits 20 and 30. By application Exhibit 20, the defendant prayed that the valuation of the suit is more than Rs.4,00,000/- and that the suit is undervalued and that the plaintiff may be directed to pay appropriate court fees. By application Exhibit 30, the defendant requested the trial court to frame preliminary issue about the jursidiction of the Court. According to the defendants, the suit, which is valued at Rs.300/-, is under-valued and, therefore, the issue about jurisdiction and about the maintainability of the said suit was pressed into service by Exhibit 30. The trial court came to the conclusion that it has jurisdiction to decide the suit in question. The trial court came to the conclusion that the said issue cannot be decided as a preliminary issue. The trial court also found that, as per the averments in the plaint, the plaintiff has become owner of the suit property and he is not asking any declaration about his ownership, but he is asking a permanent injunction as his possession was sought to be disturbed by the defendants. The trial court has given detailed reasons for rejecting both the applications Exhibits 20 and 30.

Aggrieved by the order passed by the trial court below Exhibits 20 and 30, the present Civil Revision Applications are preferred by the original defendants.

In my view, the order of the trial court cannot be said to be without jurisdiction or that the trial court has committed any jurisdictional error. The order of the trial court is, therefore, not required to be interfered with. I do not find any substance in the revision applications. Rule is discharged. Interim relief shall stand vacated. No costs.

19th March, 2004 (P.B. Majmudar, J.)

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(apj)